IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Bail Appl..No. 6682 of 2007()

CRIME NO.318/07 OF PAYYANGADI POLICE STATION

: PETITIONERS/ACCUSED

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1. P.RAHUL, S/O LATE KUNHIKANNAN,
   AGED 35 YEARS, RESIDING AT 'SREE RAMA KRIPA',
   VENGARA, KANNUR DISTRICT.

2. SMT. C.N.SUMEERA, W/O LATE KUNHIKANNAN,
   AGED 58 YEARS, RESIDING AT SREE RAMA KRIPA,
   VENGARA, KANNUR DISTRICT.

3. SMT. P.MRIDULA RENJITH,
   D/O LATE KUNHIKANNAN, AGED 36 YEARS,
   RESIDING AT NIRMALYAM, PODIKUNDU,
   KANNUR.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE STATION HOUSE OFFICER,
   PAYYANGADI POLICE STATION,
   KANNUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6682 of 2007

Dated this the 13th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are the husband of the defacto complainant and his relatives - mother and sister. Allegations of matrimonial cruelty of the culpable variety punishable under Section 498 A I.P.C are alleged against the petitioners. The learned counsel for the petitioners submits that all the outstanding disputes were settled and consequently a joint application for divorce was filed before the Family Court. Even subsequently as per order dated 31.10.07 proceedings initiated under the Domestic Violence Act, 2005 against the petitioners were withdrawn by the defacto complainant. But she is pursuing with the complaint filed under Section 498 A I.P.C. There is strain in the matrimonial tie. Consequently vexatious allegations are being raised against the petitioners by the defacto complainant. The petitioners are willing to co-operate with the investigation. They shall abide by any conditions that are imposed. They are willing for a settlement of the matrimonial disputes. The petitioners offered to appear before the Lok Adalat. The learned Public Prosecutor was directed to ascertain whether the defacto complainant is willing to appear before the Lok Adalat. The

learned Public Prosecutor submits that the police have instructed him that the defacto complainant is not willing for any such settlement.

2. Having considered all the relevant inputs, I am persuaded to agree that this is a fit case where directions under Section 438 Cr.P.C can be invoked in favour of the petitioners subject to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 20.11.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 21.11.2007 and 22.11.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 20.11.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 20.11.07.

(R.BASANT, JUDGE)

rtr/-